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DRAFT BACKGROUND STUDY TO AMEND THE 2003 DEVELOPMENT CHARGE BY-LAW

(Mayor Black declared an interest in this matter as it pertains to the 19th Avenue sewer as her spouse is a consultant on this project and did not take part in the consideration, discussion or vote on this matter.)

The Finance and Administration Committee, having concluded the statutory public meeting with respect to this matter, recommends:

1. **the communication from Barry A. Horosko, Bratty and Partners, June 1, 2005, on behalf of the Remington Group Inc. and Liberty Development Corporation, be received;**
2. **the presentation from Warren Marshall, Manager, Capital and Development Financing, be received;**
3. **the following deputations be received:**
    a) **Steve Upton, the Tridel Group;**
    b) **Lyn Townsend Renaud, on behalf of the York Chapter of the Urban Development Institute and the Greater Toronto Homebuilders' Association; and**
    c) **Sheldon Lipfeld, the Conservatory Group;**
4. **the communication, June 1, 2005 from the Commissioner of Finance relating to a change in the Development Charge background study associated with the Toronto Cost Share Agreement, be received; and**
5. **the recommendations contained in the following report, May 24, 2005, from the Commissioner of Finance be adopted:**

1. RECOMMENDATIONS

It is recommended that:

1. Council receive the draft background study completed to support the proposed amendment to the 2003 Development Charge By-law.

2. The proposed amendment to the Development Charge By-law, including any adjustments required as a result of input received at the June 2, 2005 public meeting, be brought forward to Regional Council on June 23, 2005 for enactment.

2. PURPOSE

In December 2004, Regional Council authorized staff to hold a public meeting and proceed with an amendment to the 2003 Development Charge By-law ("DC By-law"), in response to significant cost pressures recently experienced on water and sanitary sewer projects. This report provides details regarding the proposed changes to the DC By-law, and tables the background study that is required under the Development Charges Act, 1997 to enact an amendment to the DC By-law.

3. BACKGROUND

The current DC By-law was enacted by Regional Council on May 22, 2003. Subsequent to the enactment of the DC By-law, there have been some scope changes within key areas of the water and wastewater capital program. With respect to wastewater, the Region began to experience delays in proceeding to construction on some key infrastructure projects. On October 1, 2004, the Ministry of Environment issued a letter to the Region outlining additional conditions pertaining to mitigation of environmental impacts on many of the Regional wastewater projects. These additional conditions have significantly increased the cost of these projects. In response to these cost increases, Council authorized staff to proceed with an amendment to the DC By-law incorporating these increased costs, such that the costs of growth would be captured from the development creating the need for these costs.

With respect to the water program, a recently completed update to the Toronto water supply agreement has resulted in a benefit to the Region through a significant increase in the available water supply to York. The infrastructure necessary to sustain this capacity increase was determined through the Toronto/ York Joint Optimization Study (JOS) which was completed in 2004. As a result of the JOS, the capital program, which only included works to 2005 in the previous 1998 agreement, is now including an infrastructure program to 2031.

4. ANALYSIS AND OPTIONS

The proposed changes to the DC By-law are focused on the following issues.

- Water and sanitary sewer project costs
- Adjustments to by-law definitions:
    - Apartments
    - Single Family Dwellings
    - Retail uses

It is proposed that the amendments be endorsed by Regional Council at its meeting of June 23, 2005 and come into effect that day. A discussion of these proposed changes are shown below.

4.1 Water and Sanitary Sewer Project Costs

The water and sewer DC rates were calculated based on master plans developed in 2002. Updated master plans, recently completed agreement negotiations with the City of Toronto, and additional conditions for approvals imposed by the Ministry of Environment ("MOE"), and other additional information have significantly changed the capital projections used for the water and sewer DC rate calculation. The majority of the increase in capital costs for water and sewer is due to the above-noted factors. As well, a substantial number of projects have cost changes due to influences such as more detailed cost estimates, and actual costs differing from the 2002 estimates. The amendment focuses on cost increases resulting from changes in project scope, and do not incorporate cost changes due to factors such as changes in estimates. A summary of some of the key project cost increases is outlined below.

4.1.1 Water Project Cost Increases

Two capital programs account for the majority of the cost increase for water capital works.

The City of Toronto water supply increased from $126.7 million to a revised cost of $262.1. The primary reasons for this increase are:

- The region has successfully secured significant increases in water supply from Toronto when comparing the 1998 agreement to the 2005 agreement. The 1998 agreement provided for a maximum day supply of 440 ML to a period ending in 2004. The 2005 York Toronto Water Agreement will initially provide for a maximum day supply of 460 ML and will increase to 501 ML by 2011 with provisions for a long term supply of 530.1 ML by 2031.
- The 1998 York Toronto Water Agreement infrastructure program identified a capital works program to 2005. The infrastructure program in the 2005 agreement identifies capital works to 2031 which was determined through the Joint Optimization Study and necessary to secure the increased water supply from Toronto for the longer term.

The Peel water supply works as originally identified in the 2003 DC By-law increased from $151.4 million to $309.9 million. The primary reason for this change is that the 2003 DC By-law only considered projects in the 2003 to 2011 time period as identified in the approved Regional Budget. This 2005 DC By-law update will incorporate the full capital program as identified through the Peel water supply agreement which extends to 2021, and is in accordance with the agreement entered into between the Regions of York and Peel.

4.1.2 Sanitary Sewer Project Cost Increases

Over the past two years, environmental concerns on some key projects have resulted in increased scrutiny on several of the more significant YDSS projects. This has affected the environmental mitigation costs, engineering and construction costs, and approvals costs for several of these projects. The wastewater projects currently considered as critical infrastructure projects are:

- 16th Ave Phase Two sewer
- 9th Line sewer
- 19th Ave/ Leslie sewer
- Bathurst- Langstaff
- South East Collector
- Duffin Creek WPCP expansion

Capital costs for these projects have increased from $275.9 million to $393.2 million, an increase of $117.3 million. The most significant factor that has resulted in project cost increases has been the increased environmental requirements imposed on all these projects through the MOE Minister's letter of October 1, 2004 which identified the increased level of scrutiny being required to satisfy the MOE that the environmental concerns relating to dewatering effects were being adequately addressed.

4.2 Adjustments to By-law Definitions

4.2.1 Apartments

The Region's land use planning policies encourage a mix of housing forms in an effort to intensify land use, and provide more affordable housing options. The Region's policies complement recent Provincial growth management initiatives, including the *Greenbelt Act* and Plan, *Planning Act*, the 2005 Provincial Policy Statement, the discussion paper *Places to Grow* and Bill 136 – the *Places to Grow Act*, in promoting more compact development. The *Places to Grow* Draft Growth Plan contains a number of policies that have significant implications for York Region including: a 40% intensification target, land budget restrictions and required affordable housing targets.

Recently, proposals to develop higher density units have been tabled to the Region and the Town of Markham. These housing forms include triplex and fourplex dwellings, and live/work units. The dwellings typically resemble traditional single, semi-detached or townhouse units, but are divided internally into 2 to 4 units ranging in average from 600 to 1000 square feet in size. These types of dwellings would be considered multiple unit dwellings under the DC By-law, therefore a fourplex would be charged DC based on four multiple units. To make these forms of development more financially viable, the Region has received a request from the Town of Markham (in response to a request from Mattamy Homes) and an agency proposing an affordable home ownership development (Options For Homes) to amend the DC By-law to have these units charged at the lower apartment unit DC rate. For example, using the current DC rates, it is requested that a fourplex that would be charged $43,176 (4 multiples @$10,794) would actually be charged $31,664 (4 apartments @$7,916).

The housing units in question fit into the category and form of units that have been used to increase the supply of rental and affordable housing. Due to the size of the dwelling units, they tend to have less than three persons occupying the units.

The more compact form of the units promotes intensification, which is consistent with both the Region's land use policies (e.g. Regional Offical Plan Amendment No. 43 and the Centres and Corridors Strategy) and Provincial policies. Therefore, it is recommended that the DC By-law be amended to include duplexes, triplexes and fourplexes in the definition of apartments, and be charged at the appropriate apartment DC rate.

4.2.2 Single Family Dwellings

In the current DC By-law, the definition of single family dwelling specifies that a unit must not be attached to another unit. Development proposals have been received by the Region consisting of units which appear to be single family dwellings in that they are not attached to another dwelling above grade, or have a common vertical wall. However, these units share footings below grade. In the context of the current DC By-law, these units are interpreted as being attached units, and fall into the lower multiple unit DC rate category. It is proposed that the DC By-law be amended to ensure these units are appropriately charged at the single family dwelling rate.

4.2.3 Retail Uses

The definition of retail included in the DC By-law contains very few examples of what is considered a retail use. In accordance with the DC By-law, the Region considers a self storage facility a retail use, as it offers the sale or rental of services to the general public. The Region has been appealed to the Ontario Municipal Board on this interpretation, which was subsequently dismissed. To avoid future challenges to this definition, it is proposed that the DC By-law be amended to include self storage facilities as a retail use.

5. FINANCIAL IMPLICATIONS

5.1 Proposed Water and Sewer DC Rates

The following chart outlines the proposed increases to the water and sewer DC rates, based on 2003 dollars.

	Singles/ Semis	Multiples	Apartments 2>Bedrooms	Apartments 2<Bedrooms	Industrial/ Office/ Institutional[2]	Retail[2]
Water 2003 By-law[1]	$3,296	$2,825	$2,072	$1,318	$0.54	$0.79
Proposed Amendment	$4,795	$4,110	$3,014	$1,918	$0.68	$1.32
Difference	$1,499	$1,285	$ 942	$ 600	$0.14	$0.53
Sewer 2003 By-law[1]	$3,320	$2,846	$2,087	$1,328	$0.48	$0.70
Proposed Amendment	$4,003	$3,431	$2,516	$1,601	$0.60	$1.18
Difference	$ 683	$ 585	$ 429	$ 273	$0.12	$0.48

Notes:
1. Rates reflect amounts shown in 2003 DC By-law, effective June 23, 2004 to June 22, 2005
2. Rate per sq. ft. of gross floor area

The proposed rates noted above do not reflect any increases due to indexing of the charge from 2003 values to 2005 values.

5.2 Proposed DC Rates – June 23, 2005

The DC By-law provides for annual indexing of the DC rate, effective June 23 of each year. On June 23, 2004, DC rates were indexed 4.4% in accordance with the Statistics Canada Quarterly Construction Price Statistics index. The index as of the first quarter 2005 has increased 6.4% over the first quarter 2004. Therefore, on June 23, 2005, DC rates will be indexed by 6.4%.

As well, the phase-in of transit DC rates is based on the percentage of the budgeted capital program spent in the year. For 2004, 19.8% of the proposed transit capital budget was spent, therefore, 19.8% of the proposed rate phase-in will be implemented on June 23, 2005.

The following tables summarize the proposed rates to be in effect as of June 23, 2005, taking into consideration the amended water and sewer DC rates, the phase-in of the transit DC, and indexing of the DC rates.

Proposed Residential Development Charge
June 23, 2005 to June 22, 2006

Regional Municipality of York Schedule of Residential Development Charges Effective June 23, 2005 to June 22, 2006				
	Single & Semi-detached	Multiple unit Dwelling	Apartments 2+ bedrooms	Apartments <2 bedrooms
Water	$ 5,326	$ 4,565	$ 3,348	$ 2,131
Sewer	$ 4,447	$ 3,811	$ 2,795	$ 1,778
Roads	$ 4,287	$ 3,675	$ 2,695	$ 1,715
Subtotal	$14,060	$12,052	$ 8,838	$ 5,624
Transit	$ 1,142	$ 927	$ 680	$ 432
General Services	$ 515	$ 418	$ 305	$ 195
GO Transit	$ 287	$ 226	$ 166	$ 105
Total	**$16,004**	**$13,622**	**$ 9,989**	**$ 6,356**

Proposed Non-residential Development Charge
June 23, 2005 to June 22, 2006

Regional Municipality of York Schedule of Non-Residential Development Charges Effective June 23, 2005 to June 22, 2006				
	Per Square Foot of Gross Floor Area		Per Square Metre of Gross Floor Area	
	Industrial/ Office/ Institutional	Retail	Industrial/ Office/ Institutional	Retail
Water	$ 0.76	$ 1.74	$ 8.18	$18.73
Sewer	$ 0.67	$ 1.57	$ 7.21	$16.90
Roads	$ 1.73	$ 3.30	$18.62	$35.52
Transit	$ .42	$ 0.67	$ 4.52	$ 7.21
General	$ .16	$ 0.21	$ 1.72	$ 2.26
Total	**$ 3.74**	**$ 7.49**	**$ 40.25**	**$80.62**

6. LOCAL MUNICIPAL IMPACT

The DC By-law is a key component to long term infrastructure planning and growth management. It is a major funding source for infrastructure required to accommodate growth within the area municipalities. This amendment will help ensure that adequate funding is available for this infrastructure, and will mitigate the impact of the increased costs on the water and sewer user rates.

7. CONCLUSION

The draft background study supporting the amendment to the 2003 DC By-law has been prepared in accordance with the Development Charges Act, 1997. The background study will form the basis of the June 2, 2005 public meeting. It is proposed that input received at that meeting be considered, and the amendment, including any necessary changes as a result of the public meeting, be tabled for enactment by Regional Council at its meeting of June 23, 2005.

The Senior Management Group has reviewed this report.

(The attachment referred to in this clause was included in the agenda for the June 2, 2005 Committee meeting.)